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EXAMINER

RAMCHER, R

ART UNIT

PAPER NUMBER

1201

9

DATE MAILED: 05/08/97

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS☒ This application has been examined☒ Responsive to communication filed on 2-6-97☐ This action is made final.A shortened statutory period for response to this action is set to expire 3 month(s), — days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892.        | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.  | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152.       |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____   |

**Part II SUMMARY OF ACTION**

1. ☒ Claims 1-89 are pending in the application.  
(1-7, 11-14, 21-27, 29, 30, 43-45, 47-49, 51-53, 55, 57, 63, 66, parts) and  
Of the above, claims 8-10, 29, 28, 31-42, 44, 59, 56, 58-62, 67-89 are withdrawn from consideration.
2. ☐ Claims \_\_\_\_\_ have been cancelled.
3. ☐ Claims \_\_\_\_\_ are allowed.
4. ☐ Claims \_\_\_\_\_ are rejected.
5. ☒ Claims 1-7, 11-14, 21-27, 29, 30, 43-45, 47-49, 51-53, 55, 57, 63, 66 are objected to.
6. ☒ Claims 1-89 are subject to restriction or election requirement.
7. ☒ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☒ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☒ Other On the Form 1449, only references where a copy has been supplied have been initialed and looked at.

**EXAMINER'S ACTION**

Art Unit: 1201

In response to the restriction requirement (election of species) applicant~~s~~ has elected the species of compound MG341 with traverse. The claims are inclusive of patentably distinct subject matter. With the election of a species, the examiner will identify a generic concept inclusive of said species for examination. The generic concept as depicted in claim 1 where P is pyrazinecarbonyl, R is H and alkyl, A is zero, R<sup>2</sup> and R<sup>3</sup> are H, alkyl, cycloalkyl, aryl, CH<sub>2</sub>-R<sup>5</sup> each optionally substituted by non heterocyclic groups, R<sup>5</sup> is aryl, aralkyl, alkenyl each optionally substituted by non heterocyclic groups, X<sup>2</sup> is C(O)NH, Z<sup>1</sup> and Z<sup>2</sup> are OH, alkoxy and aryloxy and pharmaceutically acceptable salts thereof, is identified for examination along with the elected embodiment. The remaining subject matter of (1) claims 1-7, 11-19, 21-24, 25-27, 29, 30, 43-45, 47-49, 51-53, 55, 57, 63, 66 and (2) the subject matter of claims 8-10, 20, 28, 31-42, 46, 50, 54, 56, 58-62 and 67-89 stands withdrawn from further consideration under 37 CFR 1.142(b) as constituting other patentably distinct inventions.

The withdrawn subject matter of (1) and (2) (the compounds) is properly restricted as said subject matter differs in structure and element from the elected subject matter so as to be patentably distinct therefrom, i.e. a reference which anticipated but the elected subject matter would not even render obvious the

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withdrawn subject matter and the fields of search are not co-extensive.

The withdrawn subject matter of claims 67-89 is properly restricted as the products of claims 1-66 are capable of more than one use, are drawn to a different statutory category (products) than that of claims 67-89 and are patentably distinct one from the other.

Accordingly, the claims are drawn to more than a single invention and restriction thereof is proper, 37 CFR 1.142(a).

Claims 1-7, 11-19, 21-24, 25-27, 29, 30, 43-45, 47-49, 51-53, 55, 57, 63 and 66 are objected to as containing non elected subject matter. The objection may be overcome by limiting the claims to the subject matter indicated as being examinable, supra. Claims so limited would appear allowable, if they avoid any claim duplication, i.e. more than one claim claiming the exact same subject matter.

Ramsuer:st  
May 03, 1997



Robert W. Ramsuer  
Art Unit 1201